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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,477	11/21/2003	Masaharu Nishimura	Q78517	8115

23373 7590 01/25/2005

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WASHINGTON, DC 20037

EXAMINER

KIM, TAE JUN

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/717,477

Applicant(s)

NISHIMURA ET AL.

Examiner

Ted Kim

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11/17/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 8 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/17/2004 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Squirrell (5,329,970). Squirrell teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 11 for discharging exhaust gas of a gas turbine, an exhaust boiler 4 branched from said gas turbine exhaust passage, and a damper 10, 16 provided at a branch portion 2 between said exhaust boiler and said gas turbine exhaust passage, wherein said damper 10, 16 is made of an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is

porous from its innermost portion to its outermost portion as fluid flows freely through porous member 16, the acoustically transmissive material is disposed from one outermost portion of 16 to the other outermost portion of 16 across a thickness direction of the damper. The damper is fluidically transmissive/porous with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less. Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squirrell (5,329,970). Squirrell teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 11 for discharging exhaust gas of a gas turbine, an exhaust boiler 4 branched from said gas turbine exhaust passage, and a damper 10, 16 provided at a branch portion 2 between said exhaust boiler and said gas turbine exhaust passage, wherein said damper 10, 16 is made of an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is

porous from its innermost portion to its outermost portion as fluid flows freely through porous member 16. The damper is fluidically transmissive/porous with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less. Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies. It would have been obvious to one of ordinary skill in the art that the damper will allow low frequencies to be acoustically transmissive through the damper.

*Allowable Subject Matter*

6. Claims 5, 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

7. Applicant's arguments filed 11/17/2004 have been fully considered and overcome the Schutz et al and Bachmann references but they are not persuasive with respect to Squirrell. Applicant argues for Squirrell "however, that air may flow through the vanes is due to the structure of the damper itself; not because the material from which it is made is porous." The examiner disagrees with this assessment noting that applicant's reliance on the porous plates 91 is also due to the structure of the plates themselves allowing flow therethrough. Broadly speaking the vanes 16 of Squirrell can fairly be construed as a "porous material" just as a plate with holes is also a porous material.

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*Contact Information*

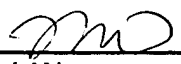
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ted Kim whose telephone number is 571-272-4829. The Examiner can be reached on regular business hours before 5:00 pm, Monday to Thursday and every other Friday.

The fax numbers for the organization where this application is assigned are

703-872-9306 for Regular faxes and 703-872-9306 for After Final faxes.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on 571-272-4834.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist of Technology Center 3700, whose telephone number is 703-308-0861. General inquiries can also be directed to the Patents Assistance Center whose telephone number is 800-786-9199. Furthermore, a variety of online resources are available at <http://www.uspto.gov/main/patents.htm>



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January 21, 2005	Fax (After Final)	703-872-9306
Technology Center 3700 Receptionist	Telephone	703-308-0861
Patents Assistance Center	Telephone	800-786-9199